



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Hillary Rodham Clinton, *et al.*

MUR 6932

**STATEMENT OF REASONS OF VICE CHAIRMAN MATTHEW S. PETERSEN AND  
COMMISSIONER CAROLINE C. HUNTER**

The complaint in this matter alleges that Hillary for America and Jose H. Villarreal in his official capacity as treasurer ("HFA") received an excessive in-kind contribution by "swapping" email lists with an unidentified independent group, which, in turn, swapped email lists with a super PAC, Ready PAC and Amy Wills Gray in her official capacity as treasurer ("Ready PAC"). The Commission's Office of General Counsel ("OGC") recommended that the Commission find reason to believe that HFA, Ready PAC, and an unknown respondent violated 52 U.S.C. § 30116(a), (f) by making and knowingly accepting an excessive contribution in connection with Ready PAC's email list. We disagreed with OGC's recommendation, and we write to explain our reasoning.

The complaint, relying on media reports, alleges that HFA received an impermissible contribution from Ready PAC, which is a super PAC, when it obtained Ready PAC's email list after Clinton announced her 2016 presidential candidacy.<sup>1</sup> According to a *Politico* report, which relies on anonymous sources to describe the transaction, HFA exchanged its email list for Ready PAC's email list "through a swap with another independent group"<sup>2</sup> after relying "in part" on HFA's "outdated" list from Clinton's 2008 campaign.<sup>3</sup> A separate media report claimed that Ready PAC planned to cease operations after transmitting its email list to HFA and that most of the \$15 million it raised went to developing the email list.<sup>4</sup>

<sup>1</sup> Supplemental Complaint ("Supp. Compl.") at 2.

<sup>2</sup> *Id.* at Ex. A (Annie Karni, *Hillary Clinton Campaign Scores Ready for Hillary Email List*, *POLITICO* (May 30, 2015)).

<sup>3</sup> *Id.* Additionally, the article identifies and quotes a 17-year-old volunteer for HFA as saying that her phone-banking efforts with HFA's 2008 campaign email list resulted in "a lot of no pickups" and that many of those who did answer the phone were "too old" to volunteer. We did not put much weight on the fact that "a lot" of unsolicited, phone bank calls went unanswered. An isolated anecdote that "a lot" of people did not answer a phone banker's calls is too vague to infer anything about the list's value.

<sup>4</sup> Compl. at Ex. G (citing Cameron Joseph, *Ready for Hillary Ready to Step Aside as She Prepares Campaign*, *THE HILL* (Mar. 22, 2015)).

Both HFA and Ready PAC admit to exchanging email lists, but they assert that the complaint fails to provide sufficient evidence of a violation to warrant an investigation in light of Commission guidance that committees may swap lists of equal market value.<sup>5</sup> HFA, in particular, argues that the "the names exchanged by HFA had an equal market value to the names received by HFA."<sup>6</sup>

The respondents correctly state that no contribution results from a fair market exchange of email lists.<sup>7</sup> This reflects a longstanding Commission interpretation of the Act and its rules, and the fact that a super PAC was a party to the exchange is immaterial to this analysis. Absent specific, concrete evidence that the list swap did not reflect an exchange for fair market value, we decline to find reason to believe and commence an investigation.

The respondents are also correct that the complaint fails to provide sufficient evidence to warrant an investigation. The *Politico* article relies on an anonymous source to describe activity that, on its face, does not violate the Act or Commission regulations. Additionally, as we have previously stated, information provided by anonymous individuals has limited probative value.<sup>8</sup>

For the reasons stated above, we voted to dismiss the allegations against Respondents and to close the file on this matter.

<sup>5</sup> Supplemental Response of Hillary Clinton & Hillary for America at 1 ("HFA Supp. Resp."); Supplemental Response of Ready PAC at 2-3 ("Ready PAC Supp. Resp.").

<sup>6</sup> HFA Supp. Resp. at 1; *see also* Ready PAC Supp. Resp. ("There is no question that Hillary for America can do exactly what it appears that they did — swap their list with another political committee or organization for fair market value.").

<sup>7</sup> Advisory Opinion 2014-06 (Ryan) at 8 ("The Commission has long recognized that a political committee's mailing lists are assets that have value and that are frequently sold, rented, or exchanged in a market."); Advisory Opinion 2006-34 (Working Assets, Inc.) at 5; Advisory Opinion 2002-14 (Libertarian National Committee) at 4; Advisory Opinion 1982-41 (Dellums) at 2; Advisory Opinion 1981-46 (Dellums) at 1.

<sup>8</sup> *See* Statement of Reasons of Matthew S. Petersen and Caroline C. Hunter at 9, MUR 6928 (Santorum, *et al.*); Statement of Reasons of Matthew S. Petersen and Caroline C. Hunter, MURs 6470 (Romney, *et al.*); Statement of Reasons of Matthew S. Petersen, Caroline C. Hunter, and Lee E. Goodman at 6-7, MUR 6518 (Gingrich, *et al.*) ("As a threshold matter, we observe that unsworn news reports by authors who are not first-hand complainants or witnesses before the Commission present legal and practical problems for the Commission and respondents, and, in any event, may be of limited probative value.").

  
MATTHEW S. PETERSEN  
Vice Chairman

8/30/2019  
Date

  
CAROLINE C. HUNTER  
Commissioner

8/30/2019  
Date

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